

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
CASE NO. 5:21-CV-00070-M

TRACI VESTAL,

Plaintiff,

v.

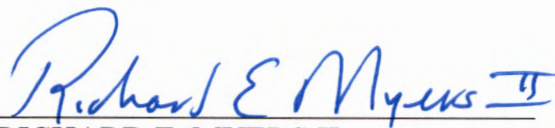
NORTH WAKE EYE CARE and  
STEPHEN MERCKLE,

Defendants.

**ORDER**

This matter is before the court on Defendants North Wake Eye Care, Dr. Stephen J Merckle, O.D., P.a. (named as “North Wake Eye Care”) (hereinafter “NWECC”) and Stephen Merckle, O.D.’s (named as “Stephen Merckle”) (hereinafter “Dr. Merckle”) (collectively “Defendants”) Motion to Dismiss [DE-17] filed on May 26, 2021. A letter docketed on May 26, 2021, was sent to pro se Plaintiff notifying her of the motion’s filing and that a response was required [DE-19]. The deadline to file a response to the motion, June 19, 2021, has passed, and, as of the date of this order, Plaintiff still has not filed a response. As a result, the Motion to Dismiss [DE-17] is GRANTED. *See Osborne v. Long*, No. 1:11-cv-00070, 2012 WL 851106, at \*10 n.5 (S.D. W. Va. Mar. 13, 2012) (referencing authority, including from the First, Third, and DC Circuits, for the proposition that federal courts may grant a motion to dismiss without reaching the merits on the grounds that the plaintiff’s failure to respond operates as a concession to that motion or that dismissal is appropriate as a sanction for failure to prosecute). The court DIRECTS the Clerk of Court to send a copy of this Order to counsel of record and any unrepresented party and to close the case.

SO ORDERED this the 7<sup>th</sup> day of July, 2021.



RICHARD E. MYERS II

CHIEF UNITED STATES DISTRICT JUDGE